

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)	
)	
Advanced Television Systems and)	
Their Impact Upon the Existing)	MB Docket No. 87-268
Television Broadcast Service)	

To: The Commission

**Petition for Reconsideration of
Sunflower Broadcasting, Inc.**

Sunflower Broadcasting, Inc. (“Sunflower”), by counsel, hereby petitions the Commission to reconsider its decision in the *Seventh Report and Order*¹ in the above-referenced proceeding to (1) allocate channel 19 for the post-transition operations of station KSCW (TV), Wichita, Kansas (Facility ID No. 72348), and (2) correct Appendix B of the *Seventh Report and Order* by modifying the antenna specified for KWCH-TV, Hutchinson, Kansas (Facility ID No. 66413), and correcting the geographic coordinates for KWCH-TV and for KBSH-TV, Hays, Kansas (Facility ID No. 66415).

The Commission Should Assign Channel 19 to KSCW Post-Transition

For the reasons set forth in Sunflower’s Comments in the Commission’s *Third Digital Periodic Review*² and below, Sunflower requests that the Commission amend the post-transition Table of Allotments to permit KSCW to broadcast on digital channel 19 using the digital

¹ *Advanced Television Systems (Seventh Report and Order and Eighth Further Notice of Proposed Rule Making)*, MB Docket No. 87-268 (rel. Aug. 6, 2007).

² Comments of Sunflower Broadcasting, Inc., MB Docket No. 07-91 (filed Aug. 15, 2007). A copy of those comments is attached as Appendix A.

facilities now used for station KWCH-DT, also licensed to Sunflower. As set forth in Sunflower's previous Comments, use of channel 19 for post-transition operations of KSCW would serve the public interest.

Using the already-constructed Channel 19 plant would allow KSCW to provide over-the-air CW program service to 114,324 more people than it can from its current channel 31 facility. *See* Appendix B. Since KSCW, unlike most other stations in the market, has no satellite stations or translators to distribute its signal, viewers must rely on its main signal for CW service.

Further, the channel 31 digital transmitter now licensed for KSCW has repeatedly been forced to operate at half power due to continuing difficulties with transmitter tubes and defective exciters. This has affected its operations for a very large portion of the time since the station's digital facility was licensed. The existing Channel 19 transmitter, by contrast, has reliably performed and is likely to continue to provide uninterrupted service.

Using the Channel 19 antenna and transmitter now operated by KWCH-DT, and which will not be used after KWCH moves back to its analog channel, will help ensure reliable service to the Wichita market in other ways. If the transmitters for KWCH and KSCW are co-located, as they would be under this proposal, any problems that arise during the ice storms and tornados that are common occurrences in Western Kansas can be addressed by engineers at one location. If the transmission facilities for the two stations remain separate, as they are now, engineers may be forced to travel to two locations, delaying repair work and television service. Sunflower also has a backup antenna and power generator for the Channel 19 facility. No equivalent backup capabilities are in place for the current KSCW transmitter.

In meetings with the Commission's staff concerning this proposal,³ it was noted that, if KSCW changes channels and moves to the KWCH antenna site, some viewers will lose predicted digital service from KSCW. Appendix C shows a Longley-Rice projection of the digital service area of KWCH on the channel 19 facilities being proposed for KSCW post-transition. It shows that the entire area which would lose predicted coverage will in fact continue to receive service. Looking only at the area which would lose predicted coverage, Appendix B is a study conducted by Chesapeake RF Consultants, LLC. It shows that, of the 38,214 persons who would lose predicted coverage from KSCW, 38,158 would have post-transition television service from at least one other station; 37,915 persons would be served by two or more stations; 21,231 would have service from three or more stations; and 16,435 would be served after the transition by five or more signals. Thus, even if the Commission does not take into consideration the actual coverage predicted using Longley-Rice, there would be only minimal loss of service from this proposal.

Indeed, most of the area of predicted loss would be in two counties – Cowley and Greenwood. Nielsen data shows that cable or other MVPD delivery systems serve 83.7 percent of the television households in Greenwood County, and 90.7 percent of the television households in Cowley County. *See* Declaration of Joan M. Barrett, attached hereto as Appendix D. It is very likely, therefore, that most of the households that would lose over-the-air digital service from KSCW receive it over cable or satellite and would not be affected at all. Further, in Cowley County, Nielsen reports show that KSCW only had a 2 share of the total viewing in the most recent survey period. *Id.* Thus, there is no reason to believe that any viewer will be adversely impacted by the proposed change in the KSCW service area.

³ *See* Letter from Jack N. Goodman to Marlene H. Dortch, MB Docket No. 07-91, filed Oct. 10, 2007.

On the other hand, as noted above, the proposed change would bring CW service to 114,324 persons who do not currently have it over the air, and would provide second or third digital over the air service to 21,188 persons. *See* Appendix B.

As described in Sunflower's Comments, it was not tardy in asking the Commission for this change. Sunflower only became the licensee of KSCW, a previously failing station, in July 2007, and neither Sunflower, nor KSCW's previous licensee, could have sought this channel change. The Commission should not require Sunflower to wait to request this change until after the transition. Sunflower, prior to the transition, must construct new digital facilities for KWCH and for three full-power satellite stations. Allowing it to use the existing Channel 19 facility for KSCW post-transition will allow it to avoid the burden of having to replace or upgrade the current KSCW transmitter to ensure reliable service, and maximize its ability to complete the transition.

The Commission, therefore, should amend the post-transition table of allocations to allocate Channel 19 for KSCW-TV, at the facilities specified in BLCDDT-20050621AAR (1,000 kW ERP, 421 m HAAT).

The Commission Should Correct Appendix B for Sunflower Stations

Appendix B of the *Seventh Report and Order* specifies post-transition operation of KWCH on Channel 12 using Antenna ID 74428 at a location of Latitude 38-03-40 and Longitude 97-45-49. Antenna ID 74428 does not match the Antenna ID in the Commission's CDBS database for KWCH's analog Channel 12 antenna (or for that matter, the Antenna ID for its Channel 19 digital facility). In fact, whatever antenna was specified in Appendix B, Sunflower intends to install a Dielectric TW12B12-R traveling wave antenna mounted on the top of its tower where the current analog antenna is mounted. This change is intended to provide

better digital service. Sunflower requests that Appendix B be amended to specify its intended antenna.⁴

The correct geographic coordinates set forth in the Commission's CDBS database for the KWCH tower are Latitude 38-03-40, Longitude 97-45-49, a difference of two seconds in latitude from the coordinates listed in Appendix B. For Sunflower's satellite station, KBSH-TV, Appendix B sets forth coordinates of Latitude 38-53-01, Longitude 99-20-15; while the CDBS database shows a Longitude of 99-20-14. Sunflower requests that the Commission correct these coordinates.

Conclusion

For the foregoing reasons and those set forth in Sunflower's Comments on the *Third Digital Periodic Review*, the Commission should reconsider its decision and (1) specify channel

⁴ Consistent with a petition for reconsideration being filed by the Association for Maximum Service Television, Sunflower believes that changes in antenna specification or corrections of geographic coordinates or other discrepancies between Appendix B and stations' actual operations would be more appropriately addressed in the licensing process. As with the analog table of allotments, it would be more appropriate to limit the digital table of allotments to communities and channel numbers (as Appendix A does), and to make clear that the Commission intends to preserve the well established ability of licensees to seek minor amendments to their facilities by application – rather than by the far more cumbersome process of rulemaking. Nevertheless, if the Commission disagrees, Sunflower requests that Appendix B be amended.

19 for the post-transition operations of KSCW-TV, and (2) correct the Antenna ID and geographic coordinates in Appendix B of the *Seventh Report and Order* for KWCH and KBSH-TV.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jack N. Goodman". The signature is fluid and cursive, with the first name "Jack" being more prominent.

Jack N. Goodman
Wilmer Cutler Pickering Hale and Dorr LLP
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(202) 663-6000
Counsel for Sunflower Broadcasting, Inc.

October 26, 2007

Appendix A

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
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Third Periodic Review of the)
Commission's Rules and Policies)
Affecting the Conversion)
To Digital Television)
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MB Docket No. 07-91

Comments of Sunflower Broadcasting, Inc.

Sunflower Broadcasting, Inc. ("Sunflower") submits these comments on the Commission's *Notice of Proposed Rule Making*, released May 18, 2007, concerning completing the transition to digital television (DTV).

In the *Notice*, the Commission tentatively concluded that it would not consider requests for expanded DTV facilities until after the completion of the transition in February 2009, but asked for comments on this conclusion.^{1/} Sunflower requests that the Commission allow stations to request, prior to the end of the transition, changes in post-transition DTV facilities, including channel changes, where (1) the proposed change would not result in additional interference to any other digital station, (2) the proposed change would result in expanded DTV coverage at lower cost, and (3) there is good cause for the failure to propose the facilities change earlier.

^{1/} *Notice* ¶ 99.

Background

Sunflower is the licensee of KWCH-TV, Hutchinson, Kansas, and KSCW (TV), Wichita, Kansas, both serving the Wichita Designated Market Area (DMA).^{2/} Sunflower's acquisition of KSCW was consummated in July 2007.^{3/} KWCH operates in analog on Channel 12 and in digital on Channel 19. Sunflower elected to return to Channel 12 for KWCH's permanent digital channel, and the Commission recently confirmed that selection.^{4/} KSCW operates in analog on Channel 33 and in digital on Channel 31, and elected to remain on channel 31 after the transition.^{5/} Both KWCH-DT and KSCW-DT are operating with full licensed facilities.

KSCW broadcasts in analog and digital from a leased studio and tower. Following its acquisition of KSCW, Sunflower intends to move the KSCW studios into the building from which KWCH operates. Since a complete digital transmission facility for Channel 19 will already be in place at Sunflower's facilities and mounted on Sunflower's tower, and Channel 19 will not be used by any other station in the market following the completion of the transition, Sunflower desires to change KSCW-DT's post-transition assignment to Channel 19, specifying the facilities now used by KWCH-DT.

Sunflower requested Chesapeake RF Consultants, LLC, to analyze the coverage and interference potential of a post-transition operation on Channel 19 by KSCW using the existing KWCH-DT facility. That analysis is attached to these comments and shows that the interference

^{2/} Sunflower is also the licensee of three full-power satellite stations serving sparsely populated rural areas of Western Kansas.

^{3/} Sunflower's acquisition of KSCW pursuant to a "failing station" waiver was approved by the Media Bureau on July 9, 2007. FCC File No. BALCT-20070330ATL.

^{4/} *Advanced Television Systems and their Impact Upon the Existing Television Service (Seventh Report and Order)*, MB Docket No. 87-268 (rel. Aug. 6, 2007) & App. B ("DTV Assignment Order").

^{5/} *Id.*

to any post-transition station from Channel 19 would be far less than the Commission's 0.1 percent interference standard. Moreover, by changing from Channel 31 to Channel 19 after the transition, KSCW would reduce interference to KCWE-DT, Kansas City, by 0.12 percent. Changing to Channel 19 would also increase both KSCW-DT's service area and the population that receives over-the-air CW service, and the station would suffer less interference than it would if it continued to use Channel 31.

Argument

The Commission should permit Sunflower to file, as part of the process for completing the transition to DTV, a request to change the post-transition digital channel for KSCW to Channel 19, on which Sunflower now broadcasts KWCH-DT's transitional signal, from Channel 31, the digital channel assigned to KSCW-DT. While the Commission previously imposed a freeze on requests for changes in DTV channels to "provide a stable database for conducting the channel election process and developing a new DTV table,"^{6/} the channel election process is now complete and the Commission has adopted a new DTV table. It would be reasonable for the Commission, given the limited time before the statutory deadline for completing the transition, not to allow stations to request wholesale changes in the table, particularly where those changes would affect other stations and assignments. The limited change Sunflower desires to propose, however, would not adversely impact either completion of the transition or the policy objectives supporting the freeze. The Commission should allow Sunflower, before the end of the transition, to request a channel change for KSCW.

Sunflower could not have requested this channel change before now. The assignment of the KSCW license to Sunflower was consummated on July 20, 2007. Sunflower could not have

^{6/} Notice n. 180.

requested a change in KSCW's facilities before it took control. Prior to consummation, KSCW would also have had no right or ability to use Sunflower's facilities, and KSCW's previous licensee could not have made this request. Thus, Sunflower has not delayed or been tardy in making this request; it is being filed at the first possible opportunity.

Notably, the Commission in the *DTV Assignment Order* permitted stations to make changes to their DTV channel assignments where the circumstances justified those changes and the proposed channel assignment would not result in new interference to other stations.^{7/} Thus, the Commission has recognized that it may be appropriate for it to allow stations to change DTV channel assignments.

Allowing KSCW to operate after the transition on the existing Channel 19 facility would serve the public interest. KSCW is the sole source of programming from The CW in Western Kansas. The Wichita DMA is the Nation's sixth largest in terms of area.^{8/} Unlike most of its competitors in the market, KSCW does not operate translators or satellite stations to provide coverage to rural portions of the DMA. Thus, increasing the DTV service area of KSCW would bring over-the-air CW service to consumers who now have no broadcast source for that programming. The Commission recognized in the *Notice* that its objectives in assigning final DTV licenses were to "promote overall spectrum efficiency and to ensure that broadcasters *provide the best possible service to the public.*"^{9/} The proposed channel change for KSCW would improve DTV service in the Wichita market.

Permitting KSCW to use the existing Channel 19 facilities would also reduce the costs of providing DTV service to a previously "failing" station. KSCW's transmitter and antenna are on

^{7/} *DTV Assignment Order* ¶¶ 145-56.

^{8/} See Exh. 15 to FCC File No. BALCT-20060728AGC at 3.

^{9/} *Notice* ¶ 5 (emphasis added).

leased facilities at a different location from KWCH's tower. If KSCW must continue to broadcast on Channel 31, Sunflower must continue to pay for the tower lease and to keep an additional studio-transmitter link in operation. Those costs would be saved if KSCW can operate using the existing Channel 19 transmitter and antenna already located at the KWCH tower. This is the kind of efficiency that the Commission sought to permit when it established its failing station waiver policy,^{10/} and would allow more resources to be devoted to improved programming and local service.^{11/}

Using the existing Channel 19 transmitter will also improve the reliability of digital service. The current KSCW transmitter has suffered from repeated failures of transmitter tubes, resulting in extended operation at half power.^{12/} Although Sunflower has now replaced the previous tubes with ones of a different design and returned the station to full power operation, the KSCW transmitter has also had problems with defective exciters. By contrast, the Channel 19 transmitter used for KWCH-DT has a proven record of reliability and is more likely to provide uninterrupted service without further modification or replacement. Further, there is neither a backup transmitter for KSCW's Channel 31 operations nor backup power generation capability at the KSCW tower site; Sunflower has a backup transmitter and backup power generators in place for Channel 19, providing additional reliability, which is particularly important in Kansas which suffers from frequent tornados.

^{10/} See *Review of the Commission's Regulations Governing Television Broadcasting*, 14 FCC Rcd 12903 (1999), *recon. granted in part*, 16 FCC Rcd 1067 (2001).

^{11/} The proposed change would also reduce the number of towers needed for post-transition television service.

^{12/} See, e.g., FCC File No. BDSTA-20070125ADM (request for Special Temporary Authority to operate at half-power).

As noted above, using Channel 19 after the transition would not result in interference to any other digital channel assignment. Returning Channel 31 at the end of the transition, however, would reduce the interference received by KWCE in Kansas City, further advancing the Commission's goal of spectrum efficiency.

Changing KSCW's final digital channel to Channel 19 would also not result in any delay in completing the transition or in any burden on the resources needed for other stations to complete post-transition facilities. As explained above, the facilities Sunflower proposes to use for KSCW are already constructed and in use as KWCH's transitional channel.

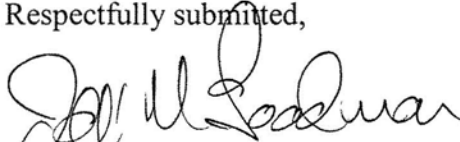
In Paragraph 99 of the *Notice*, the Commission tentatively concluded that it will not allow requests for expanded post-transition DTV service until either later in the transition or after it has been completed. That proposal may be reasonable where a requested change would adversely affect other stations or could result in additional strain on the resources needed to complete the transition. In Sunflower's circumstances, no other station would be harmed by the change to KSCW's post-transition channel, another station would in fact benefit from the change, and service to the Wichita DMA would also be improved. The Commission should, therefore, allow stations to seek changes in their post-transition channels where no new interference will result and service will improve and where they could not previously have requested a change.^{13/}

^{13/} Because no new construction would be required for the proposed channel change, the request to substitute Channel 19 for KSCW's post-transition channel need not be subject to the expedited processing procedures proposed in Paragraph 94 of the *Notice*.

Conclusion

For the foregoing reasons, the Commission should allow Sunflower to file, before the end of the transition, a request to change the post-transition DTV channel assigned to KSCW to permit it to use the KWCH-DT Channel 19 facilities.

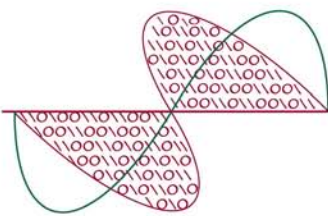
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jack N. Goodman", written over the typed name.

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August 15, 2007



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August 3, 2007

Ms. Marcia K. Burdick
Senior Vice President, Broadcasting
Schurz Communications Inc.
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VIA E-MAIL

RE: KSCW(TV) Digital Channel

Dear Ms. Burdick:

This will summarize the results of interference studies concerning a change in the final digital television channel assignment regarding KSCW(TV), Wichita, KS, recently acquired Sunflower Broadcasting, Inc. KSCW is presently analog Channel 33 and digital Channel 31. KSCW elected to remain on Channel 31 as its final digital channel and this is shown as the KSCW Tentative Channel Designation ("TCD") in the FCC's proposed table of final digital allotments.

Nearby Sunflower Broadcasting station KWCH-TV, Hutchinson, KS, presently analog Channel 12 and digital Channel 19, will go to Channel 12 for final digital operation, vacating its transitional digital Channel 19 operation. As outlined by counsel, Mr. Jack Goodman, I understand that you are interested in changing KSCW's final digital operation to Channel 19 utilizing the antenna location and parameters corresponding to the presently licensed KWCH-TV digital Channel 19.

The KWCH-TV digital Channel 19 facility is located 35.8 km (22.2 miles) from the KSCW site. The use of Channel 19 at the KWCH-TV digital parameters (1000 kW ERP / 421 meters antenna HAAT) for KSCW would extend the coverage area beyond that of the KSCW TCD Channel 31 (1000 kW / 345 m). A coverage contour comparison map is attached.

Interference study results pursuant to FCC OET Bulletin 69 show that KSCW's use of digital Channel 19 (with the KWCH-TV antenna parameters from BLCDDT-20050621AAR) would have complied with the 0.1 percent interference limit and method of calculation the FCC employed during the channel election phase. Additionally, now considering only post-transition facilities, the interference would also not exceed 0.1 percent and therefore would comply with the proposed 0.5 percent limit specified in FCC Third Periodic Review NPRM (MB Docket 07-91) for post-transition modifications. Potentially affected stations by a Channel 19 operation are well removed from the Wichita area. A summary of the post-transition interference study results is provided in the following.

Ms. Marcia K. Burdick
August 3, 2007
Page 2 of 2



Post-Transition Interference Analysis Results Summary
KSCW(TV) On Digital Ch. 19 at KWCH-TV Licensed Digital Ch. 19 Parameters

Ch	Call	State/City File Number	Fac. ID	Latitude Longitude	Power HAAT	Distance Bearing	Baseline Population	New Interference (2000 Census)	
								Population	Percent
19	KTVG	NE GRAND ISLAND BPCDT-19991015ABA	27220	40 43 44 98 34 13	1000 186	304.2 347.1	43,294	17	0.04%
19	KWKS	KS COLBY BNP EDT-20040726ACE	162115	39 14 31 101 21 38	500 384	339.5 293.9	195,558	57	0.03%

The service and interference statistics for the present and prospective KSCW TCD are summarized below.

	Ch. 31 Present TCD	Ch. 19 Prospective TCD
Service Area (sq. km)	31,920.1	39,557.8
Service Population (2000 census)	747,336	829,621
Interference	0.097 %	0.015 %

I also examined the interference impact to other stations brought about by the current KSCW digital Channel 31 TCD facility. Interference studies show that removing KSCW's digital Channel 31 from the proposed allotment table would reduce post-transition interference by 0.12 percent to KCWE(TV) (Ch. 31, Kansas City, MO) and by 0.03 percent to KOET(TV) (Ch. 31, Eufaula, OK).

Thank you for the opportunity to be of service. Please contact me with any questions or comments.

Sincerely,

Joseph M. Davis, P.E.
For Chesapeake RF Consultants, LLC

Enclosure: as stated

cc: Jack N. Goodman, Esq.

